

REMARKS

Terminal Disclaimer

The Examiner states that the “terminal disclaimer filed on December 29th, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of October 14, 2003 has been reviewed and accepted.” This Terminal Disclaimer relates to United States Patent No. 6,662,802. Applicants note that the ‘802 patent expires on June 21, 2021 (Applicants do not believe that the ‘802 patent itself is subject to a Terminal Disclaimer). Therefore, Applicants are unsure as to why the Examiner asserts an “October 14, 2003” date, and requests clarification as to the term of any patent granted on this application.

Claim Rejections - 35 U.S.C. §103

Claims 1-3 and 8-10 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Japanese Patent No. 11323899 to Nakamura in view of United States Patent No. 4,686,354 to Makin. Reconsideration and withdrawal of this rejection is requested.

Firstly, Applicants note that Nakamura discloses an apparatus used for draining waste water from beneath a pavement slab. As such, Applicants submit that Nakamura teaches a bundle of tubes which does indeed have **a direct supply of water** to it. Without a direct supply of water, the tube would not function, as its only purpose is to drain pooled water away. The water beneath the pavement slab exists outside of the conduit and the entire purpose of the teaching of Nakamura is to convey that water away from beneath the pavement slab.

In contrast, claim 1 clearly requires that “there being no means for direct supply of water or fluid to said hydrophilic layer from outside said conduit”. Therefore, Applicants submit that Nakamura is not relevant to claim 1.

Further, Applicants submit that there is no teaching, suggestion or motivation to combine Nakamura with a medical hose such as that disclosed in Makin. The purpose of Nakamura is to convey fluid from one end of the conduit to the other. In contrast, medical breathing hoses as disclosed in Makin have the primary purpose of conveying gases rather than liquids.

The structure of the present invention as claimed has the purpose of collecting condensed fluid from *within* the conduit to itself. The effect of the claimed invention is to soak up any pooling water and prevent it from becoming unnecessarily mobile within the conduit i.e., to try and stop liquid water from reaching a patient at the end of the conduit.

In contrast, the effect of Nakamura is to prevent liquid water from pooling at one end of the conduit, by conveying it away along the length of the conduit to the other end.

Claim 1 also requires a conduit for breathing circuit including a heating means located within the conduit. By way of contrast, the disclosure of Nakamura does not describe a conduit suitable for a breathing circuit. The conduit of Nakamura has no gases pathway as the glass fibers fill the vast majority of the conduit’s cross section. If necessary, Applicants are prepared to amend claim 1 to explicitly recite that the conduit define a gases passageway between its ends.

Given that the physical effect of the claimed invention and the cited references are very different, and the fields of teaching are not analogous, Applicants submit that a person of ordinary skill in the art would not have any extrinsic motivation to combine the cited references. The structure and teaching of Nakamura applied to a breathing conduit would not even be

capable of solving the problem to which the claimed invention is directed. Applicants submit the present invention as claimed is inventive over the cited prior art combination.

Reconsideration and withdrawal of the rejection of claim 1 is requested.

Claims 2, 3 and 8-10 are dependent upon claim

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Allowable Subject Matter

Applicants note with appreciation the indicated allowability of claims 4-7, 11 and 12.

Information Disclosure Statement

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Applicants again acknowledge receipt of the partially initialed form relating to the Information Disclosure Statement filed on December 3, 2003. Applicants still note, however, that Sheet 2 of 2 of the Information Disclosure Statement filed on December 3, 2003 was returned with the Office Action, but was not initialed. Applicants request confirmation of consideration of these references by return of the initialed form.

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In view of the above Remarks, Applicants respectfully submit that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any

questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

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